

Minutes of the Maine Real Estate Commission

May 18, 2006

MEMBERS PRESENT

Winfred Stevens, Chairman
David Kitchen, Vice-Chairman
Earl Black
Jeffrey Mitchell

STAFF PRESENT

Carol Leighton, Director
Karen Bivins, Deputy Director
Robert Perkins, Assistant Attorney General
Judy Phillips, Examiner
Marilyn Lugner, Education Coordinator
Susan Greenlaw, Secretary

MEMBERS ABSENT

Susan Lewis Hodgkins
Sharon Millett

Location: Central Conference Room

Start: 9:00 a.m.

Adjourn: 11:25 a.m.

Agenda Modifications

A motion was made by Jeffrey Mitchell and seconded by Earl Black to add the following to the agenda. Unanimous.

- I. Proposed Consent Agreements
 - A. #2005-REC-114
 - B. #2006-REC-2009

Commission Minutes

A motion was made by David Kitchen and seconded by Jeffrey Mitchell to approve the minutes of the April 12, 2006 meeting as written. Unanimous.

Adjudicatory Hearings

Director v. Dani L. O'Halloran: Continuance requested. A motion was made by Earl Black and seconded by Jeffrey Mitchell to grant a continuance. Unanimous.

The Chair opened the hearing in the matter of Director v. Karen A. Schlegel. The Director was present and represented by Assistant Attorney General Robert Perkins. Schlegel was present and not represented by an attorney. Public deliberations were conducted at the close of the hearing. A motion was made by David Kitchen and seconded by Jeffrey Mitchell to find Schlegel in violation of 32 M.R.S.A. §§13067(1)(F), 13197(1), and Chapter 370 Section 10(A). Unanimous. A motion was made by David Kitchen and seconded by Jeffrey Mitchell to order Schlegel to pay a fine in the amount of \$600 within 30 days, with payment to be in the form of a bank check or money order. Unanimous.

The Chair opened the hearing in the matter of Director v. Ronald A. Tremblay. The Director was present and represented by Assistant Attorney General Robert Perkins. Tremblay was not present nor represented by an attorney. Public deliberations were conducted at the close of the hearing. A motion was made by Earl Black and seconded by Jeffrey Mitchell to find Tremblay in violation of 32 M.R.S.A. §13195. Unanimous. A motion was made by Earl Black and seconded by Jeffrey Mitchell to order Tremblay to pay a fine in the amount of \$500 within 30 days, with payment to be in the form of a bank check or money order. Black, Kitchen, and Stevens voted in the affirmative; Mitchell opposed. Motion carried.

Proposed Consent Agreements

A motion was made by Jeffrey Mitchell and seconded by Earl Black to accept the Proposed Consent Agreement in case numbers 2006-REC-2422, 2006-REC-2594, 2006-REC-2600, 2006-REC-2606, 2006-REC-2607, 2005-REC-114, and 2006-REC-2009. Unanimous.

#2006-REC-2470: Earl Black recused and left the room. A motion was made by David Kitchen and seconded by Jeffrey Mitchell to accept the Proposed Consent Agreement. Kitchen, Mitchell, and Stevens voted in the affirmative; none opposed. Motion carried.

A motion was made by David Kitchen and seconded by Earl Black to accept the Proposed Consent Agreement in case number 2004-REC-143. Unanimous.

Dismissed Complaints

A motion was made by Earl Black and seconded by Jeffrey Mitchell to accept the Proposed Dismissals in case numbers 2004-REC-120, 2005-REC-87. Unanimous.

Final Decision and Order – Cash C. Wiseman

David Kitchen and Winfred Stevens recused and left the room. A motion was made by Earl Black and seconded by Jeffrey Mitchell to accept the Decision and Order. Black and Mitchell voted in the affirmative; none opposed. Motion carried.

Director's Report

Instructor Training May 8, 2006 – Recap: Carol Leighton reported that 40 individuals attended the Core Course portion of the training and 29 attended the afternoon Associate Broker session. Ms. Leighton discussed the outcome of the training with the Commission.

Questions regarding new rules – Chapter 360(4)(3) and Chapter 400(3)(1)(B)&(C):

- *Chapter 360 Prerequisites to Licensure by Individuals, Section (4)(3)*: Interpretation of this rule, specifically, if the applicant must pass the exam within one year of completion of the course. Members agreed that this is the correct interpretation.
- *Chapter 400 Agency/Designated Broker Responsibilities, Section (3)(1)(B)*: What is the triggering for the three year retention period for Real Estate Relationships Form? The

Commission agreed that paragraph B requires the designated broker to retain copies of the Real Estate Relationships Form for three years from the date a licensee furnishes a copy, which may occur prior to a real estate transaction. It was noted that the retention requirement for this Form is the same as it was for Form #2, except the time period was increased from two to three years.

- *Chapter 400 Agency/Designated Broker Responsibilities, Section 3(1)(C)*: Does this mean copies of all advertising must be retained? The Commission agreed that paragraph C, as it relates to advertising, requires the designated broker to retain copies of advertising request forms prepared by a licensee and submitted to a newspaper, magazine, etc. for publication.

The Director reported that she received a call from two employees of the Federal Trade Commission (FTC) regarding the proposed rules, specifically, Chapter 410(1)(6). During the phone conversation, the Director provided information that addressed the concern raised by the FTC.

ARELLO Meeting Report: Carol Leighton submitted her report on the ARELLO Mid-Year Meeting held April 6-8, 2006 in Jacksonville, Florida.

Next Meeting Scheduled for June 15, 2006

The meeting was adjourned at 11:25 a.m.

This report respectfully submitted,

Winfred A. Stevens
Chairman

Carol J. Leighton
Director